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Supreme Court, U.S.
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IN THE OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES

JIN RIE,

Plaintiff and Petitioner.

v.

ALAN ROSEN; LAW OFFICES OF ROSEN AND
LOEB; SBS TRUST DEED NETWORK; ASADUR
TURSUGIAN; PETRA TURSUGIAN; et al.

Defendants and Respondents.

On Petition for Writ of Certiorari
To The United States Supreme Court

PETITION FOR WRIT OF CERTIORARI

Petitioner/Appellant in Pro Per:

Jin Rie

110 North Berendo Street

Los Angeles, CA 90004

213-389-7944

I. QUESTIONS PRESENTED FOR REVIEW

The question presented in this petition is what standard of review is applicable when the Court fails to give a civil litigant warning regarding the dangers and risks of self-representation in a complex civil case, similar to the warning given in complex federal civil cases and criminal cases, which requires that a defendant "be made aware of the dangers and disadvantages of self-representation, so that the record will establish that he knows what he is doing and his choice is made with eyes open."¹

The second question is whether California Civil Code § 2966 requires actual receipt by a trustor of notice of balloon payment.

The third question is whether the alleged judicial admission made by the Petitioner in another case can be applied to a related but separate case.

The fourth question is whether Petitioner did, in fact, make a judicial admission and whether interpreting his statement as a judicial admission violates Petitioner's 14th Amendment right to a fair trial and due process.

The fifth question is whether the unplanned and reluctant and perfunctory hearing for motion in limine on August 6, 2003 cannot be regarded as an acceptable real hearing or whether it infringes the civil right of Petitioner for due process.

This case can have other federal issues and so many errors were made by Appellate Judges, but the page limit discourages Petitioner to elaborate each of them. Including 2 errors in Galperin case, Appellate Judges made total 19 errors in or connected to this case, and among them, at least 12 errors are related to the above three issues.² Further, this case has high

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statistical value in the American legal history with so weird coincidences not only for Petitioner himself but also for the people of the United States.³ The statistics and weird coincidences can be associated with "unconscionability" of the Defendants. Therefore, Petitioner prays the Court to read his Appellate brief as well as his opening brief carefully.

³ Rie v. Rosen, Appellate Brief p. 14-15 (Error 14), opening brief p. 6-8 (IV. Peculiarities of Rosen Case).

TABLE OF CONTENTS

SUBJECT	PAGE
TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES (STATUTES)	iii
TABLE OF AUTHORITIES (CASES).....	iii
I. QUESTION PRESENTED FOR REVIEW	1
II. OPINIONS BELOW	3
III. JURISDICTION	3
IV. STATUTORY PROVISIONS INVOLVED	3
V. STATEMENT OF THE CASE.....	3
A. FIRST AMENDED COMPLAINT.....	3
B. DEMURRER TO FIRST AMENDED COMPLAINT.....	6
C. SECOND AMENDED COMPLAINT.....	7
D. DEMURRER TO SECOND AMENDED COMPLAINT	8
E. THIRD AMENDED COMPLAINT.....	9
VI. THE SCENARIO AND DISASTER ON AUGUST 6, 2003	9
A. INTRODUCTION	10
B. MAJOR SCENES	10
C. ANALYSES ON AUGUST DISASTER.....	14
D. APPELLATE COURT FAILED TO CORRECT THE VIOLATION OF DUE PROCESS IN AUGUST DISASTER BY THE TRIAL COURT	15
VII. PROCEDURAL HISTORY	16
VIII. SUMMARY OF THE ARGUMENT	17
IX. STATUTORY AND CASE LAW BACKGROUND	18
X. ARGUMENT	21

<u>A. THE STATUTE AND CASE LAW SUPPORTS THE PROPOSITION THAT THE COURT WARN LITIGANTS IN COMLEX CIVIL TRIALS ABOUT THE DANGERS OF SELF-REPRESENTATION</u>	<u>21</u>
<u>B. POLICY SUPPORTS THE NECESSITY OF SUCH A WARNING</u>	<u>22</u>
<u>C. WITHOUT SUCH A WARNING, THE RIGHT TO A FAIR TRIAL AND EQUAL PROTECTION UNDER THE CONSTITUTION IS DENIED.....</u>	<u>23</u>
<u>D. BECAUSE THE COURT FAILED TO GIVE SUCH A WARNING, THE PROPER STANDARD OF REVIEW UNDER CCP § 473 WAS A REASONABLE LAY-PERSON</u>	<u>24</u>
<u>E. BECAUSE THE COURT FAILED TO GIVE SUCH A WARNING, THE PETITIONER ACTED IN DETRIMENT TO HIS CASE, AND SUCH ERRORS SHOULD BE EXCUSED</u>	<u>24</u>
<u>F. CALIFORNIA CIVIL § 2966 SHOULD BE INTERPRETED TP REQUIRE ACTUAL RECEIPT BY A TRUSTOR OF NOTICE OF BALLOON PAYMENT AND THE CURRENT INTERRETATION VIOLATES DUE PROCESS</u>	<u>25</u>
<u>G. THE AMBIGUOUS EXPRESSION IN THE COMPLAINT OF RIE V. 6 ANGELS CANNOT BE A REAL JUDICIAL ADMISSION THAT RIE RECEIVED THE NOTICE IN JANUARY OF 1999</u>	<u>26</u>
<u>H. THE APPLICATION OF THE ALLEGED .. JUDICAL ADMISSION MADE IN A SEPARATE CASE SHOU' D NOT APPLY TO THE RIE V. ROSEN CASE, AND SCU AN APPLICATION VIOLATES THE PEITIONER'S 14TH AMENDMENT RIGHT TO DUE PROCESS</u>	<u>27</u>
<u>I. THE UNPLANNED AND RELUCTANT AND PERFUNCTORY HEARING FOR MOTION IN LIMINE ON AUGUST 6, 2003 CANNOT BE REGARDED AS AN ACCEPTABLE REAL HEARING AND VIOLATES THE PETITIONER'S 14TH AMENDMENT RIGHT TO DUE PROCESS.....</u>	<u>27</u>
 XI. CONCLUSION AND RELIEF SOUGHT	 28
APPENDIX 1	30
APPENDIX 2	41
APPENDIX 3	43

TABLE OF AUTHORITIES (STATUTES)

SUBJECT	PAGE
California Civil Code § 2966.....	3,4,5,18,20,25,26
California Code of Civil Procedure § 473	3,18,24
Witkin Cal. Crim. Law Crim Trial § 256	3,17
Title 28 U.S.C. § 1915	3,17,19
28 U.S.C.S. § 2255.....	19
California Rules of Court §1800.....	17,19
Government Code section 68607	20

TABLE OF AUTHORITIES (CASES)

SUBJECT	PAGE
Barnhill v. Doiron, 958 F.2d 200, 202 (7 th Circuit 1992) 17,19	
Bockrath v. Aldrich Chem. Co., 21 Cal. 4 th 71, 81, 86 Cal. Rptr. 2d 846, 980 P.2d 398 (1999).....	22
Boodie v. Connecticut, 401 U.S. 371, 28 L.Ed. 2d 113, 91 S. Ct. 780 (1971)	23
Carnley v. Carnley, 1962, 369 U.S. 506, 82 S.Ct. 884, 8 L.Ed.2d 70.....	17
Dillon v United States, 307 F.2d 445, 453 (1962)	23
Faretta v. California, 422 U.S. 806, 835, 45 L. Ed. 2d 563, 95 S. Ct. 2525 (1975).....	1,17,18
First State Insurance v. The Superior Court of Los Angeles County, 79 Cal. App. 4 th 342, 94 Cal. Rptr. 2d. 104 (2000) 22	
Hernandez v. The Superior Court of the State of California, 112 Cal. App. 285, 4 Cal. Rptr. 3d 883 (2003).....	17
Jin Rie, et al vs. Alan Rosen, et al., Case # BC275364/ B169669	6,7,8,17,18,19,20,21,22,23,26,27,28
Jones v. Piper Aircraft Corp., 18 F.R.D. 181, 183 (M.D. Pa. 1955)	27
People v. Bloom 48 C.3d 1194, 1225, 259, C.R. 669, 774 P.2d 698 (1989).....	19
M.L.B. v. S.L.J., 519 U.S. 102; 117 S. Ct. 555; 136 L. Ed. 2d 473.....	23

Volkswagen of America, Inc., et. al. v. The Superior Court of
the City and County of San Francisco, 94 Cal. App. 4th 695;
114 Cal. Rptr. 541 (2001) 17
United States ex. rel. Wissenfeld v. Wilkins, 2 Cir. 1960, 281
F 2d 707 (1960)..... 17
United States v. McDowell, 814 F.2d 245, 250 (6th Cir. 1987)
..... 19

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II. OPINIONS BELOW

On October 7, 2003, the Trial Court dismissed Petitioner's action against Alan L. Rosen. On January 10, 2005, the Court of Appeal Second Appellate District Division Four affirmed the Trial Court's decision. On March 30, 2005 the Supreme Court of California denied review of the Petitioner's Appeal in an unpublished opinion.

III. JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C. §1331. The question presented by this petition is an important question of federal law under Supreme Court Rule 10(c) that has not been settled by this Court and is thus subject to review before the Supreme Court of the United States.

IV. STATUTORY PROVISIONS INVOLVED

The statutes and rules involved are set forth in the Appendix to this Brief ("App."). The statutes and rules involved are: California Code of Civil Procedure § 473; IV Witkin Cal. Crim. Law Crim Trial § 256; Title 28 U.S.C. § 1915; 28 U.S.C.S. §255; California Rules of Court §1800; Government Code section 68607; Cal Civ Code § 2966.

V. STATEMENT OF THE CASE

In 1992, Petitioner Jin Rie ("Rie") and wife Cheon Rie purchased property from Asadur and Petra Tursugian who held back a second deed of trust. In 1999, the Tursugians foreclosed on the deed of trust. The Ries filed a lawsuit against the Tursugians, their attorney Alan Rosen, his law firm--the Law Offices of Rosen and Loeb ("Rosen"), and the company that had handled the foreclosure, SBS Trust Deed Network (SBS).

A. First Amended Complaint

The original complaint was filed on June 7, 2002. The first amended complaint (FAC)

alleged that the Tursugians held a second deed of trust on the Ries' property in the original amount of approximately \$ 42,000. In 1997, the parties "entered into a written agreement . . . whereby [the Ries] were to repay [the loan] in monthly payments of \$ 4,000." The Ries performed that agreement until the latter part of 1998, at which time the parties allegedly reached a new arrangement.

The FAC further alleged that "during the period from 1997 through December 1998 and June 1999, Tursugians on several occasion agreed to accept partial payments from [the Ries] on the balance of the note." But when partial payments were tendered, the Tursugians rejected them. Instead, the Tursugians, through their lawyer Rosen, "claimed to have given notice in January 1999 of the balloon payment" which the Ries denied receiving, and "attempted to back-date notices of balloon payments in order to demonstrate compliance with the 90-day advance notice requirement of Civil Code Section 2966."⁴ The FAC said the Ries did not receive the section 2966 notice until April 1999.

A notice of default was served in May 1999. The FAC claimed that the notice of default was defective because it contained "amounts due, interest due, and other items for which there [was] no explanation nor reasonable calculations." The FAC also alleged that no notice of foreclosure sale was ever received by the Ries, and they did not learn about the September 17, 1999, sale of the property until sometime after it occurred.

According to the FAC, the property was purchased by 6 Angels, Inc. In December 1999, the holder of the first trust deed foreclosed, and the Ries reacquired the property by paying off 6 Angels and the first trust deed lender.

⁴ Section 2966 requires holders of notes with balloon payments to provide written notice by certified mail of when the payment is due. The notice at issue in this case will be referred to herein as "the section 2966 notice."

The FAC contained eight causes of action. The first cause of action was for wrongful foreclosure and was brought against all defendants, including nonrespondent SBS. It alleged that defendants failed to carry out foreclosure proceedings properly in that they "failed to rely on proper notices of balloon payments as required by Civil Code § 2966, failed to allow the requisite time required under the code for payment of such balloon payment demand, failed to serve a notice of default after the expiration of such time, failed to file a notice of default that accurately and correctly stated the terms of the loan and the deficiency, failed to account for the agreements reached between the Tursugians and [the Ries] in resolving the modest amount of payments remaining on the Second Trust Deed, and failed to properly notice and serve a Notice of Sale as required by the Code."

The second cause of action for breach of contract was alleged against respondents Rosen and the Tursugians only. The FAC alleged that the parties entered into a written agreement with the Tursugians whereby the Ries were to repay the loan in monthly payments of \$ 4,000. In the third cause of action for misrepresentation, the Ries alleged that respondents made "numerous representations." The fourth cause of action for unfair debt collection practices alleged that respondents violated the "Fair Debt Collection Act" by making misrepresentations and false promises, and by keeping critical information from the Ries. It further alleged that respondents "used false information, fabricated notices that were never sent, [and] entered into agreements with [the Ries] and thereafter rejected payments made pursuant to such agreements."

The fifth cause of action for fraud alleged that respondents deceived the Ries about reaching an arrangement on the note "in order to fraudulently force the property into foreclosure." The sixth cause of action alleged that all defendants, including SBS, entered into a conspiracy in order to deprive the Ries of their valuable property in order to collect a debt of \$ 13,000. The seventh cause of action for interference with economic relations alleged that respondents interfered with the Ries' relationship with the Bank of America in order "to convince Bank of America to